



DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2020-0064]

Petition for Waiver of Compliance

Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that on June 15, 2021, BNSF Railway Company (BNSF) petitioned the Federal Railroad Administration (FRA) to modify a waiver of compliance that provides relief from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 213. FRA previously assigned the waiver Docket Number FRA-2020-0064.

BNSF's existing waiver identified two territories, the Powder River Territory, and the Southern Transcon Territory, where 49 CFR 213.233 visual track inspection requirements are replaced with a combination of performance-based automated and visual inspections. Automated inspections are performed by Unmanned Automated Track Geometry Cars every 12 million gross tons, not exceeding four weeks between tests, and visual inspections are performed either twice per month, weekly, or three times per week, based on risk model calculations made weekly for each track segment.

BNSF is requesting to expand the scope of the waiver by adding two additional territories. First, BNSF requests to incorporate their Orin Subdivision, a 395-track mile line running from Donkey Creek Junction, Wyoming, to Bridger Junction, Wyoming, into the existing Powder River Territory. In support of this request, BNSF states that the operational, traffic mix, and weather characteristics of the Orin Subdivision are similar to the other subdivisions of the Powder River Territory.

Second, BNSF requests to add a new territory to the waiver, their Northern Transcon Route. This 4,322-track mile line runs from Chicago, Illinois, to Seattle,

Washington. In support of this request, BNSF references their 2020 geometry defect rates along the route as lower (safer) than the rates of the Southern Transcon Territory.

In support of its petition, BNSF references data and analysis from their Track Inspection Test Program, Docket Number FRA-2018-0091, and data and analysis already available in Docket Number FRA-2020-0064. BNSF states that all requirements of the waiver have been met during implementation on the Powder River Territory and Southern Transcon Territory. BNSF contends there are no unique characteristics of the Northern Transcon Route or Orin Subdivision that would prevent BNSF's successful implementation of the existing relief over those additional territories. BNSF concludes that adding the two new territories will result in net safety benefits for those territories due to the increased geometry inspections and data-driven visual inspections.

A copy of the petition, as well as any written communications concerning the petition, if any, are available for review online at www.regulations.gov.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing for these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- Web site: <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- Fax: 202-493-2251.
- Mail: Docket Operations Facility, U.S. Department of Transportation (DOT), 1200 New Jersey Ave., SE, W12-140, Washington, DC 20590.

- Hand Delivery: 1200 New Jersey Ave., SE, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by **[INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See also <https://www.regulations.gov/privacy-notice> for the privacy notice of www.regulations.gov.

Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Railroad Safety,

Chief Safety Officer.

[FR Doc. 2021-14535 Filed: 7/7/2021 8:45 am; Publication Date: 7/8/2021]